

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>SUPERSEDING INDICTMENT</u>
	:	
- v. -	:	S1 20 Cr. 314 (GHW)
	:	
ETHAN PHELAN MELZER,	:	
a/k/a "Etil Reggad,"	:	
	:	
Defendant.	:	
	:	
-----	X	

COUNT ONE
(Conspiracy to Murder U.S. Nationals)

The Grand Jury charges:

1. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to kill nationals of the United States.

2. It was a part and an object of the conspiracy that ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, and others known and unknown, at least one of whom was outside the United States, would and did murder United States nationals anywhere in the world.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, committed the following overt acts, among others:

a. On or about May 14, 2020, MELZER sent an electronic message that stated, in substance and in part, that MELZER believed that his "military training, survival, [and] links to other groups" could be useful to other members of the extremist group Order of the Nine Angles ("O9A").

b. On or about May 17, 2020, MELZER exchanged electronic communications in an O9A-related chatroom regarding the anticipated deployment of MELZER's U.S. Army unit and passed information regarding the deployment to a purported member of al Qaeda.

c. On or about May 23, 2020, MELZER sent electronic communications to participants in an O9A-related chat group, in which MELZER wrote, in substance and in part, that he was "risking [his] literal free life" by disclosing information regarding his unit's deployment and was "expecting results"; that his "life would be absolutely meaningless in the amount of shit it [i.e., the attack] would cause"; that the attack would

cause a "new war"; and that the attack would result in "mascal," which another participant explained meant "mass casualty."

d. On or about May 24, 2020, MELZER participated in an exchange of electronic communications in which another participant characterized the plot against MELZER's unit as a "jihadi attack." During the exchange, MELZER acknowledged that he could be killed during the attack, and wrote, "who gives a fuck [. . .] it would be another war . . . I would've died successfully . . . cause [] another 10 year war in the Middle East would definitely leave a mark."

e. Between on or about May 24 and May 25, 2020, MELZER sent electronic messages with specific, classified, information about his unit's anticipated deployment, including, among other things, the number of soldiers who would be traveling, the location of the facility to which MELZER expected the unit to be deployed, and information about the facility's surveillance and defensive capabilities. MELZER also promised to provide additional information after he deployed in order to try to maximize the likelihood of a successful attack on his unit.

(Title 18, United States Code, Sections 2332(b) and 3238.)

COUNT TWO
(Attempted Murder of U.S. Nationals)

The Grand Jury further charges:

4. Paragraphs One through Three of this Indictment are realleged and incorporated by reference as though fully set forth herein.

5. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, willfully and knowingly attempted to and aided and abetted the attempt to kill U.S. nationals outside of the United States -- which killing is murder as defined in Title 18, United States Code, Section 1111(a) -- to wit, MELZER disclosed classified U.S. Army information to members and associates of O9A to facilitate a deadly attack on his unit, which included U.S. nationals.

(Title 18, United States Code, Sections 2332(b), 3238, and 2.)

COUNT THREE

(Conspiracy to Murder U.S. Service Members)

The Grand Jury further charges:

6. Paragraphs One through Five of this Indictment are realleged and incorporated by reference as though fully set forth herein.

7. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and

committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, and others known and unknown, knowingly and intentionally combined, conspired, confederated, and agreed together and with each other to violate Section 1114 of Title 18, United States Code.

8. It was a part and an object of the conspiracy that ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, and others known and unknown, would and did kill an officer and employee of the United States -- which killing is murder as defined in Title 18, United States Code, Section 1111(a) -- including any member of the uniformed services, while such officer and employee was engaged in and on account of the performance of official duties, and any person assisting such an officer and employee in the performance of such duties and on account of that assistance, in violation of Title 18, United States Code, Section 1114.

Overt Acts

9. In furtherance of the conspiracy and to effect the illegal object thereof, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, committed the overt acts described in

Paragraph Three of this Indictment, which are incorporated fully herein.

(Title 18, United States Code, Sections 1114, 1117, and 3238.)

COUNT FOUR

(Attempted Murder of U.S. Service Members)

The Grand Jury further charges:

10. Paragraphs One through Nine of this Indictment are realleged and incorporated by reference as though fully set forth herein.

11. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, willingly and knowingly attempted to and aided and abetted the attempt to kill an officer and employee of the United States -- which killing is murder as defined in Title 18, United States Code, Section 1111(a) -- including any member of the uniformed services, while such officer and employee was engaged in and on account of the performance of official duties, and any person assisting such an officer and employee in the performance of such duties and on account of that assistance, to wit, MELZER disclosed classified U.S. Army information to members and associates of O9A to

facilitate a deadly attack on his unit.

(Title 18, United States Code, Sections 1114, 3238, and 2.)

COUNT FIVE

(Provision and Attempted Provision
of Material Support to Terrorists)

The Grand Jury further charges:

12. Paragraphs One through Eleven of this Indictment are realleged and incorporated by reference as though fully set forth herein.

13. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, knowingly and intentionally did provide, and attempt to provide, material support and resources, as that term is defined in Title 18, United States Code, Section 2339A(b) -- to wit, intangible property, services, expert advice or assistance, and personnel, including himself -- knowing and intending that they were to be used in preparation for, and in carrying out, one or more of the following violations of Title 18, United States Code: (a) conspiring to murder and maim persons in a foreign country, in violation of Title 18, United States Code, Section 956; (b) murdering U.S.

military service members, in violation of Title 18, United States Code, Sections 1114; (c) murdering U.S. nationals, in violation of Title 18, United States Code, Section 2332(a); and (d) conspiring to murder U.S. nationals, in violation of Title 18, United States Code, Section 2332(b).

(Title 18, United States Code, Sections 2339A(a), 3238, and 2.)

COUNT SIX

(Conspiracy to Murder and Maim In A Foreign Country)

The Grand Jury further charges:

14. Paragraphs One through Thirteen of this Indictment are realleged and incorporated by reference as though fully set forth herein.

15. From at least in or about 2019 up to and including in or about May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, and others known and unknown, knowingly and intentionally combined, conspired, confederated, and agreed together and with each other, within the jurisdiction of the United States, to commit, at a place outside the United States, acts that would constitute the offenses of murder and maiming if committed in the special maritime and territorial jurisdiction of the United States.

Overt Acts

16. In furtherance of the conspiracy and to effect the illegal object thereof, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, committed the overt acts described in Paragraph Three of this Indictment, which are incorporated fully herein.

(Title 18, United States Code, Sections 956(a)(1),
956(a)(2)(A), and 3238.)

COUNT SEVEN

(Illegal Transmission of of National Defense Information)

The Grand Jury further charges:

17. Between in or about April 2020 and May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, having lawful possession of, access to, and control over information relating to the national defense, willfully communicated, delivered, and transmitted, caused to be communicated, delivered, and transmitted, and attempted to communicate, deliver, transmit and cause to be communicated, delivered, and transmitted, the same to a person not entitled to receive it, with reason to believe that such information could be used to the injury of the United States and to the advantage of a foreign country, to wit, MELZER

transmitted classified U.S. Army information about his unit's upcoming deployment and the U.S. military facility to which his unit would be deployed to O9A members living in other countries and a purported member of al Qaeda located abroad.

(Title 18, United States Code, Sections 793(d) and 2.)

COUNT EIGHT
(Illegal Delivery of National Defense Information)

The Grand Jury further charges:

18. Between in or about April 2020 and May 2020, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, who was first brought to and arrested in the Southern District of New York, did willfully communicate, deliver, and transmit and attempt to communicate, deliver, and transmit to a citizen of a foreign country and a faction, party, and military force in a foreign country, directly and indirectly, information relating to the national defense of the United States, with intent and reason to believe that such information was to be used to the injury of the United States and to the advantage of a foreign country, to wit, MELZER transmitted classified U.S. Army information about his unit's upcoming deployment and the U.S. military installation to which his unit would be deployed to citizens of foreign countries and individuals MELZER believed to be citizens

of foreign countries, including O9A members living in other countries and a purported member of al Qaeda located abroad.

(Title 18, United States Code, Sections 794(a) and 2.)

FORFEITURE ALLEGATIONS

19. As a result of planning and perpetrating Federal crimes of terrorism against the United States, as defined in Title 18, United States Code, Section 2332b(g)(5), and as alleged in Counts One, Two, Three, Four, Five, and Six of this Indictment, ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(G) and Title 28, United States Code, Section 2461:

- a. All right, title, and interest in all assets, foreign and domestic;
- b. All right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and
- c. All right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism

against the United States, citizens and residents of the United States, and their property; including but not limited to a sum of money representing the value of the property described above as being subject to forfeiture.

20. As a result of committing the offenses alleged in Counts Seven and Eight of this Indictment, ETHAN PHELAN MELZER, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 793(h) and 794(d), any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, from any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, as the result of the commission of the offenses charged in Counts Seven and Eight of this Indictment.

Substitute Assets Provision

21. If any of the above-described forfeitable property, as a result of any act or omission of ETHAN PHELAN MELZER, a/k/a "Etil Reggad," the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the


Court;

- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 28 United States Code, Section 2461, to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981(a)(1)(G), 793(h), 794(d), and 2332b(g)(5); and Title 28, United States Code, Section 2461.)


FOREPERSON


AUDREY STRAUSS
Acting United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

ETHAN PHELAN MELZER,
a/k/a "Etil Reggad,"

Defendant.

SUPERSEDING INDICTMENT

S1 20 Cr.314 (GHW)

(Title 18, United States Code,
Sections 793, 794, 956(a), 1114, 1117, 2332, 2339A, 3238, and
2.)

AUDREY STRAUSS

Acting United States Attorney

A TRUE BILL



Foreperson.